

	<p>IDEM Permit Guide: Permitting Stormwater Associated with Construction Activities</p> <p>www.IN.gov/idem/guides/permit/water/stormwaterconstruction.html</p>
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Who May Need a Permit

Any persons disturbing the soil as a result of construction activities may be required to obtain a storm water runoff permit from the IDEM Office of Water Quality.

The purpose of general permit [327 IAC 15-5 \(Rule 5\)](http://www.in.gov/legislative/iac/T03270/A00150.wpd) [http://www.in.gov/legislative/iac/T03270/A00150.wpd] is to reduce pollutants, principally sediment as a result of soil erosion, in storm water discharges into surface waters of the state. The requirements of Rule 5 apply to all persons who are involved in construction activity (which includes clearing, grading, excavation and other land disturbing activities) that results in the disturbance of five (5) acres or more of total land area. If the land disturbing activity results in the disturbance of less than five (5) acres of total land area, but is part of a larger common plan of development or sale (such as the development of a subdivision or industrial park), it is still subject to storm water permitting.

A "larger common plan of development or sale" is a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. For example, if a developer buys a 20-acre lot and builds roads, installs pipes and runs electricity with the intention of constructing homes or other structures sometime in the near future, this would be considered a common plan of development or sale. If the land is parceled off or sold, and construction occurs on plots that are less than five acres by separate, independent builders, this activity still would be subject to the storm water permitting requirements.

Some of the things an operator must do to comply with Rule 5 include (but are not limited to):

- File an Erosion Control Plan with the [local county Soil and Water Conservation District \(SWCD\)](http://www.agry.purdue.edu/swq/swcd.html) [http://www.agry.purdue.edu/swq/swcd.html],
- File a Notice of Intent (NOI) with IDEM prior to start of any work. The NOI should describe the project, the number of acres involved, and provide an estimated time table for land disturbing activities,
- Publish a public notice of the planned construction activity in a local newspaper of general circulation, and send a copy of that notice to IDEM along with the NOI,
- Be sure that the personnel responsible for installing and maintaining the erosion control measures have been trained in erosion control practices,

- Include a \$100 [application fee](http://www.in.gov/idem/guides/permit/other/feespage.html#stormwater) [http://www.in.gov/idem/guides/permit/other/feespage.html#stormwater] with the NOI, and
- Comply with the requirements outlined in the permit, including erecting and maintaining erosion control fences to prevent soil erosion.
- Notify IDEM upon completion of earth disturbing activity (this is required under Indiana Administrative Code [327 IAC 15-5-11](http://www.state.in.us/legislative/iac/T03270/A00150.wpd) [http://www.state.in.us/legislative/iac/T03270/A00150.wpd]) by filling out a [Notice of Termination form](http://www.in.gov/idem/water/compbr/wetwthr/storm/notextrule5.pdf) [http://www.in.gov/idem/water/compbr/wetwthr/storm/notextrule5.pdf] and submitting this to IDEM.

Please note: All construction activity, including home or building construction, must be complete before a notice of termination may be submitted. If you terminate your project's General Permit coverage before your site is finally stabilized, you may be required to file another NOI.

What to Expect

Like any other permit-by-rule, when an applicant submits a Notice of Intent (NOI) for Rule 5, they are certifying that they will comply with all the terms and conditions specified in the rule. Therefore, the Rule 5 permit becomes effective immediately upon receipt by IDEM of the NOI. IDEM approval of the NOI usually takes two or three weeks. Although the applicant may choose to begin work immediately, they should be mindful that, if the NOI is determined by IDEM to be incomplete or otherwise deficient, thereby requiring IDEM to send the applicant a Notice of Deficiency (NOD), any work the applicant chose to do before the issues precipitating the NOD are resolved, will be considered as done in violation to the Rule 5 permit.

It also generally takes the Soil and Water Conservation District about one month to approve the required Soil Erosion Control Plan (SECP). Similarly, if the SECP is not approved in the form in which it was initially submitted and must instead be further revised or improved by the applicant, then any land disturbing activities the applicant chose to undertake prior to receiving approval of their SECP by the Soil and Water Conservation District will subsequently be found in violation of the Rule 5 permit.

General permits like Rule 5 are [non-transferable](http://www.in.gov/idem/guides/permit/other/transfers.html) [http://www.in.gov/idem/guides/permit/other/transfers.html] .

Runoff into a receiving stream classified as an Outstanding State Resource or Exceptional Use Water is not eligible for a Rule 5 permit. The applicant must instead apply for an individual National Pollutant Discharge Elimination Permit at least 180 days prior to initiation of land disturbing activities.

For Additional Information

To obtain additional information regarding Storm Water Run-off Associated with Construction (Rule 5), to learn what streams are listed as [Outstanding State Resources](#)

or Exceptional Use Waters

[<http://www.in.gov/idem/water/compbr/wetwthr/storm/appdxa.html>], to view rule citations, obtain a [Notice of Intent form](#) [<http://www.in.gov/idem/water/compbr/wetwthr/storm/noiformrule5.pdf>] or [Notice of Termination form](#) [<http://www.in.gov/idem/water/compbr/wetwthr/storm/notextrule5.pdf>], [Identification of Potentially Affected Persons form](#) [<http://www.in.gov/idem/water/compbr/wetwthr/storm/potentiaffectform.pdf>], or other guidance, please visit the IDEM Office of Water Quality's [Storm Water Rule 5 web page](#) [<http://www.in.gov/idem/water/compbr/wetwthr/storm/rule5.html>] or contact:

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Disclaimer

This permit guide is intended to provide background information which should be useful in planning for a particular project that may require an environmental permit. It does not substitute for consultation with the appropriate regulatory agency and/or the appropriate rules or statute.